

TITLE 9
EVIDENCE

CHAPTER 7
MEANS OF PRODUCTION OF EVIDENCE

9-706. SUBPOENAS UNNECESSARY WHEN PERSON IS PRESENT. A person present in court, or before a judicial officer, may be required to testify in the same manner as if he were in attendance upon a subpoena issued by such court or officer.

[(9-706) C.C.P. 1881, sec. 946; R.S., R.C., & C.L., sec. 6040; C.S., sec. 7986; I.C.A., sec. 16-706.]

9-708. DISOBEDIENCE OF SUBPOENA -- PENALTY TO AGGRIEVED PARTY. A witness disobeying a subpoena also forfeits to the party aggrieved the sum of \$100, and all damages which he may sustain by the failure of a witness to attend, which forfeiture and damages may be recovered in a civil action.

[(9-708) C.C.P. 1881, sec. 948; R.S., R.C., & C.L., sec. 6042; C.S., sec. 7988; I.C.A., sec. 16-708.]

9-709. ATTACHMENT OF WITNESS. In case of failure of a witness to attend, the court or officer issuing the subpoena, upon proof of the service thereof, and of the failure of the witness, may issue a warrant to the sheriff of the county to arrest the witness and bring him before the court or officer where his attendance was required.

[(9-709) C.C.P. 1881, sec. 949; R.S., R.C., & C.L., sec. 6043; C.S., sec. 7989; I.C.A., sec. 16-709.]

9-710. WARRANT OF COMMITMENT -- CONTENTS, DIRECTION AND EXECUTION. Every warrant of commitment, issued by a court or officer pursuant to this chapter, must specify therein particularly, the cause of the commitment, and if it be for refusing to answer a question, such question must be stated in the warrant. And every warrant to arrest or commit a witness pursuant to this chapter, must be directed to the sheriff of the county where the witness may be, and must be executed by him in the same manner as process issued by the district court.

[(9-710) C.C.P. 1881, sec. 950; R.S., R.C., & C.L., sec. 6044; C.S., sec. 7990; I.C.A., sec. 16-710.]

9-711. PRISONERS CONFINED WITHIN STATE -- EXAMINATION IN PRISON -- PRODUCTION IN COURT. If the witness be a prisoner, confined in a jail or prison within this state, an order for his examination in the prison upon deposition, or for his temporary removal and production before a court or officer for the purpose of being orally examined, may be made by any justice of the supreme court or judge or magistrate of the district court.

[(9-711) C.C.P. 1881, sec. 951; R.S., R.C., & C.L., sec. 6045; C.S., sec. 7991; I.C.A., sec. 16-711; am. 1969, ch. 126, sec. 2, p. 388.]

9-712. EXAMINATION OR PRODUCTION OF PRISONERS -- MOTION, AFFIDAVIT, AND ORDER. Such order can only be made on the motion of a party, upon affidavit showing the nature of the action or proceeding, the testimony expected from the witness and its materiality.

[(9-712) C.C.P. 1881, sec. 952; R.S., R.C., & C.L., sec. 6046; C.S., sec. 7992; I.C.A., sec. 16-712.]

9-713. PRISONERS -- EXAMINATION IN PERSON OR BY DEPOSITION. If the witness be imprisoned in the county where the action or proceeding is pending his production may be required. In all other cases his examination, when allowed, must be taken upon deposition.

[(9-713) C.C.P. 1881, sec. 953; R.S., R.C., & C.L., sec. 6047; C.S., sec. 7993; I.C.A., sec. 16-713.]